

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 1981**

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**Introduced by Assembly Member Brown**

February 19, 2014

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An act to amend Section 1936 of the Civil Code, relating to rental vehicles.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1981, as amended, Brown. Rental vehicles: ~~contracts~~; *contracts*: *damage waivers*.

Existing law governs contracts between vehicle rental companies and their customers and ~~defines an authorized driver for purposes of these provisions~~ *authorizes a rental company to sell a damage waiver for each full or partial 24-hour rental day. Existing law specifies the rate of the damage waiver sold, as determined by criteria that include the rental company designation of the vehicle based upon the manufacturer's suggested retail price and model year. For purposes of these provisions, existing law requires the manufacturer's suggested retail price to be adjusted annually to reflect changes from the previous year in the Consumer Price Index, as defined.*

This bill would ~~make technical, nonsubstantive changes to this definition~~ *revise these provisions to authorize a damage waiver to be sold for each category of rental vehicle. The bill would remove the manufacturer's suggested retail price as one of the criteria for the rate of a damage waiver sold by a rental company. The bill would specify the rate of the damage waiver only for rental vehicles that a rental company designates as an "economy car," "compact car," or another term that has a similar meaning to the 2 smallest categories of vehicles*

*described in prescribed standards. The bill would also require, on and after January 1, 2016, this specified rate of the damage waiver to be adjusted annually to reflect changes from the previous year in the Consumer Price Index.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1936 of the Civil Code, as amended by  
2 Section 2 of Chapter 549 of the Statutes of 2013, is amended to  
3 read:  
4 1936. (a) For the purpose of this section, the following  
5 definitions shall apply:  
6 (1) "Rental company" means a person or entity in the business  
7 of renting passenger vehicles to the public.  
8 (2) "Renter" means any person in a manner obligated under a  
9 contract for the lease or hire of a passenger vehicle from a rental  
10 company for a period of less than 30 days.  
11 (3) "Authorized driver" means all of the following:  
12 (A) The renter.  
13 (B) The renter's spouse if that person is a licensed driver and  
14 satisfies the rental company's minimum age requirement.  
15 (C) The renter's employer or coworker if he or she is engaged  
16 in business activity with the renter, is a licensed driver, and satisfies  
17 the rental company's minimum age requirement.  
18 (D) A person expressly listed by the rental company on that  
19 renter's contract as an authorized driver.  
20 (4) (A) "Customer facility charge" means any fee, including  
21 an alternative fee, required by an airport to be collected by a rental  
22 company from a renter for any of the following purposes:  
23 (i) To finance, design, and construct consolidated airport car  
24 rental facilities.  
25 (ii) To finance, design, construct, and operate common-use  
26 transportation systems that move passengers between airport  
27 terminals and those consolidated car rental facilities, and acquire  
28 vehicles for use in that system.  
29 (iii) To finance, design, and construct terminal modifications  
30 solely to accommodate and provide customer access to  
31 common-use transportation systems.

1 (B) The aggregate amount to be collected shall not exceed the  
2 reasonable costs, as determined by an audit, by an independent  
3 auditor, paid for by the airport, to finance, design, and construct  
4 those facilities. The auditor shall independently examine and  
5 substantiate the necessity for and the amount of the customer  
6 facility charge, including whether the airport's actual or projected  
7 costs are supported and justified, any steps the airport may take to  
8 limit costs, potential alternatives for meeting the airport's revenue  
9 needs other than the collection of the fee, and whether and to what  
10 extent car rental companies or other businesses or individuals using  
11 the facility or common-use transportation system may pay for the  
12 costs associated with these facilities and systems other than the  
13 fee from rental customers, or whether the airport did not comply  
14 with any provision of this subparagraph. Copies of the audit shall  
15 be provided to the Assembly and Senate Committees on Judiciary,  
16 the Assembly Committee on Transportation, and the Senate  
17 Committee on Transportation and Housing and shall be posted on  
18 the airport's Internet Web site. In the case of a customer facility  
19 charge for a common-use transportation system, the audit also  
20 shall consider the reasonable costs of providing the transit system  
21 or busing network pursuant to clause (ii) of subparagraph (A). Any  
22 audit required by this subparagraph may be included as a part of  
23 an audit of an airport's finances. Notwithstanding clause (iii) of  
24 subparagraph (A), the fees designated as a customer facility charge  
25 shall not be used to pay for terminal expansion, gate expansion,  
26 runway expansion, changes in hours of operation, or changes in  
27 the number of flights arriving or departing from the airport.

28 (C) Except as provided in subparagraph (D), the authorization  
29 given pursuant to this section for an airport to impose a customer  
30 facility charge shall become inoperative when the bonds used for  
31 financing are paid.

32 (D) If a bond or other form of indebtedness is not used for  
33 financing, or the bond or other form of indebtedness used for  
34 financing has been paid, the Oakland International Airport may  
35 require the collection of a customer facility charge for a period of  
36 up to 10 years from the imposition of the charge for the purposes  
37 allowed by, and subject to the conditions imposed by, this section.

38 (5) "Damage waiver" means a rental company's agreement not  
39 to hold a renter liable for all or any portion of any damage or loss

1 related to the rented vehicle, any loss of use of the rented vehicle,  
2 or any storage, impound, towing, or administrative charges.

3 (6) “Electronic surveillance technology” means a technological  
4 method or system used to observe, monitor, or collect information,  
5 including telematics, Global Positioning System (GPS), wireless  
6 technology, or location-based technologies. “Electronic  
7 surveillance technology” does not include event data recorders  
8 (EDR), sensing and diagnostic modules (SDM), or other systems  
9 that are used either:

10 (A) For the purpose of identifying, diagnosing, or monitoring  
11 functions related to the potential need to repair, service, or perform  
12 maintenance on the rental vehicle.

13 (B) As part of the vehicle’s airbag sensing and diagnostic system  
14 in order to capture safety systems-related data for retrieval after a  
15 crash has occurred or in the event that the collision sensors are  
16 activated to prepare the decisionmaking computer to make the  
17 determination to deploy or not to deploy the airbag.

18 (7) “Estimated time for replacement” means the number of hours  
19 of labor, or fraction thereof, needed to replace damaged vehicle  
20 parts as set forth in collision damage estimating guides generally  
21 used in the vehicle repair business and commonly known as “crash  
22 books.”

23 (8) “Estimated time for repair” means a good faith estimate of  
24 the reasonable number of hours of labor, or fraction thereof, needed  
25 to repair damaged vehicle parts.

26 (9) “Membership program” means a service offered by a rental  
27 company that permits customers to bypass the rental counter and  
28 go directly to the car previously reserved. A membership program  
29 shall meet all of the following requirements:

30 (A) The renter initiates enrollment by completing an application  
31 on which the renter can specify a preference for type of vehicle  
32 and acceptance or declination of optional services.

33 (B) The rental company fully discloses, prior to the enrollee’s  
34 first rental as a participant in the program, all terms and conditions  
35 of the rental agreement as well as all required disclosures.

36 (C) The renter may terminate enrollment at any time.

37 (D) The rental company fully explains to the renter that  
38 designated preferences, as well as acceptance or declination of  
39 optional services, may be changed by the renter at any time for  
40 the next and future rentals.

1 (E) An employee designated to receive the form specified in  
2 subparagraph (C) of paragraph (1) of subdivision (t) is present at  
3 the lot where the renter takes possession of the car, to receive any  
4 change in the rental agreement from the renter.

5 (10) "Passenger vehicle" means a passenger vehicle as defined  
6 in Section 465 of the Vehicle Code.

7 (b) Except as limited by subdivision (c), a rental company and  
8 a renter may agree that the renter will be responsible for no more  
9 than all of the following:

10 (1) Physical or mechanical damage to the rented vehicle up to  
11 its fair market value, as determined in the customary market for  
12 the sale of that vehicle, resulting from collision regardless of the  
13 cause of the damage.

14 (2) Loss due to theft of the rented vehicle up to its fair market  
15 value, as determined in the customary market for the sale of that  
16 vehicle, provided that the rental company establishes by clear and  
17 convincing evidence that the renter or the authorized driver failed  
18 to exercise ordinary care while in possession of the vehicle. In  
19 addition, the renter shall be presumed to have no liability for any  
20 loss due to theft if (A) an authorized driver has possession of the  
21 ignition key furnished by the rental company or an authorized  
22 driver establishes that the ignition key furnished by the rental  
23 company was not in the vehicle at the time of the theft, and (B) an  
24 authorized driver files an official report of the theft with the police  
25 or other law enforcement agency within 24 hours of learning of  
26 the theft and reasonably cooperates with the rental company and  
27 the police or other law enforcement agency in providing  
28 information concerning the theft. The presumption set forth in this  
29 paragraph is a presumption affecting the burden of proof which  
30 the rental company may rebut by establishing that an authorized  
31 driver committed, or aided and abetted the commission of, the  
32 theft.

33 (3) Physical damage to the rented vehicle up to its fair market  
34 value, as determined in the customary market for the sale of that  
35 vehicle, resulting from vandalism occurring after, or in connection  
36 with, the theft of the rented vehicle. However, the renter shall have  
37 no liability for any damage due to vandalism if the renter would  
38 have no liability for theft pursuant to paragraph (2).

1 (4) Physical damage to the rented vehicle up to a total of five  
2 hundred dollars (\$500) resulting from vandalism unrelated to the  
3 theft of the rented vehicle.

4 (5) Actual charges for towing, storage, and impound fees paid  
5 by the rental company if the renter is liable for damage or loss.

6 (6) An administrative charge, which shall include the cost of  
7 appraisal and all other costs and expenses incident to the damage,  
8 loss, repair, or replacement of the rented vehicle.

9 (c) The total amount of the renter's liability to the rental  
10 company resulting from damage to the rented vehicle shall not  
11 exceed the sum of the following:

12 (1) The estimated cost of parts which the rental company would  
13 have to pay to replace damaged vehicle parts. All discounts and  
14 price reductions or adjustments that are or will be received by the  
15 rental company shall be subtracted from the estimate to the extent  
16 not already incorporated in the estimate, or otherwise promptly  
17 credited or refunded to the renter.

18 (2) The estimated cost of labor to replace damaged vehicle parts,  
19 which shall not exceed the product of (A) the rate for labor usually  
20 paid by the rental company to replace vehicle parts of the type that  
21 were damaged and (B) the estimated time for replacement. All  
22 discounts and price reductions or adjustments that are or will be  
23 received by the rental company shall be subtracted from the  
24 estimate to the extent not already incorporated in the estimate, or  
25 otherwise promptly credited or refunded to the renter.

26 (3) (A) The estimated cost of labor to repair damaged vehicle  
27 parts, which shall not exceed the lesser of the following:

28 (i) The product of the rate for labor usually paid by the rental  
29 company to repair vehicle parts of the type that were damaged and  
30 the estimated time for repair.

31 (ii) The sum of the estimated labor and parts costs determined  
32 under paragraphs (1) and (2) to replace the same vehicle parts.

33 (B) All discounts and price reductions or adjustments that are  
34 or will be received by the rental company shall be subtracted from  
35 the estimate to the extent not already incorporated in the estimate,  
36 or otherwise promptly credited or refunded to the renter.

37 (4) For the purpose of converting the estimated time for repair  
38 into the same units of time in which the rental rate is expressed, a  
39 day shall be deemed to consist of eight hours.

1 (5) Actual charges for towing, storage, and impound fees paid  
2 by the rental company.

3 (6) The administrative charge described in paragraph (6) of  
4 subdivision (b) shall not exceed (A) fifty dollars (\$50) if the total  
5 estimated cost for parts and labor is more than one hundred dollars  
6 (\$100) up to and including five hundred dollars (\$500), (B) one  
7 hundred dollars (\$100) if the total estimated cost for parts and  
8 labor exceeds five hundred dollars (\$500) up to and including one  
9 thousand five hundred dollars (\$1,500), and (C) one hundred fifty  
10 dollars (\$150) if the total estimated cost for parts and labor exceeds  
11 one thousand five hundred dollars (\$1,500). An administrative  
12 charge shall not be imposed if the total estimated cost of parts and  
13 labor is one hundred dollars (\$100) or less.

14 (d) (1) The total amount of an authorized driver's liability to  
15 the rental company, if any, for damage occurring during the  
16 authorized driver's operation of the rented vehicle shall not exceed  
17 the amount of the renter's liability under subdivision (c).

18 (2) A rental company shall not recover from the renter or other  
19 authorized driver an amount exceeding the renter's liability under  
20 subdivision (c).

21 (3) A claim against a renter resulting from damage or loss,  
22 excluding loss of use, to a rental vehicle shall be reasonably and  
23 rationally related to the actual loss incurred. A rental company  
24 shall mitigate damages where possible and shall not assert or collect  
25 a claim for physical damage which exceeds the actual costs of the  
26 repairs performed or the estimated cost of repairs, if the rental  
27 company chooses not to repair the vehicle, including all discounts  
28 and price reductions. However, if the vehicle is a total loss vehicle,  
29 the claim shall not exceed the total loss vehicle value established  
30 in accordance with procedures that are customarily used by  
31 insurance companies when paying claims on total loss vehicles,  
32 less the proceeds from salvaging the vehicle, if those proceeds are  
33 retained by the rental company.

34 (4) If insurance coverage exists under the renter's applicable  
35 personal or business insurance policy and the coverage is confirmed  
36 during regular business hours, the renter may require that the rental  
37 company submit any claims to the renter's applicable personal or  
38 business insurance carrier. The rental company shall not make any  
39 written or oral representations that it will not present claims or  
40 negotiate with the renter's insurance carrier. For purposes of this

1 paragraph, confirmation of coverage includes telephone  
2 confirmation from insurance company representatives during  
3 regular business hours. Upon request of the renter and after  
4 confirmation of coverage, the amount of claim shall be resolved  
5 between the insurance carrier and the rental company. The renter  
6 shall remain responsible for payment to the rental car company  
7 for any loss sustained that the renter's applicable personal or  
8 business insurance policy does not cover.

9 (5) A rental company shall not recover from the renter or other  
10 authorized driver for an item described in subdivision (b) to the  
11 extent the rental company obtains recovery from another person.

12 (6) This section applies only to the maximum liability of a renter  
13 or other authorized driver to the rental company resulting from  
14 damage to the rented vehicle and not to the liability of another  
15 person.

16 (e) (1) Except as provided in subdivision (f), a damage waiver  
17 shall provide or, if not expressly stated in writing, shall be deemed  
18 to provide that the renter has no liability for a damage, loss, loss  
19 of use, or a cost or expense incident thereto.

20 (2) Except as provided in subdivision (f), every limitation,  
21 exception, or exclusion to a damage waiver is void and  
22 unenforceable.

23 (f) A rental company may provide in the rental contract that a  
24 damage waiver does not apply under any of the following  
25 circumstances:

26 (1) Damage or loss results from an authorized driver's (A)  
27 intentional, willful, wanton, or reckless conduct, (B) operation of  
28 the vehicle under the influence of drugs or alcohol in violation of  
29 Section 23152 of the Vehicle Code, (C) towing or pushing  
30 anything, or (D) operation of the vehicle on an unpaved road if  
31 the damage or loss is a direct result of the road or driving  
32 conditions.

33 (2) Damage or loss occurs while the vehicle is (A) used for  
34 commercial hire, (B) used in connection with conduct that could  
35 be properly charged as a felony, (C) involved in a speed test or  
36 contest or in driver training activity, (D) operated by a person other  
37 than an authorized driver, or (E) operated outside the United States.

38 (3) An authorized driver who has (A) provided fraudulent  
39 information to the rental company, or (B) provided false



1 information and the rental company would not have rented the  
2 vehicle if it had instead received true information.

3 (g) (1) A rental company that offers or provides a damage  
4 waiver for any consideration in addition to the rental rate shall  
5 clearly and conspicuously disclose the following information in  
6 the rental contract or holder in which the contract is placed and,  
7 also, in signs posted at the place, such as the counter, where the  
8 renter signs the rental contract, and, for renters who are enrolled  
9 in the rental company's membership program, in a sign that shall  
10 be posted in a location clearly visible to those renters as they enter  
11 the location where their reserved rental cars are parked or near the  
12 exit of the bus or other conveyance that transports the enrollee to  
13 a reserved car: (A) the nature of the renter's liability, such as  
14 liability for all collision damage regardless of cause, (B) the extent  
15 of the renter's liability, such as liability for damage or loss up to  
16 a specified amount, (C) the renter's personal insurance policy or  
17 the credit card used to pay for the car rental transaction may  
18 provide coverage for all or a portion of the renter's potential  
19 liability, (D) the renter should consult with his or her insurer to  
20 determine the scope of insurance coverage, including the amount  
21 of the deductible, if any, for which the renter is obligated, (E) the  
22 renter may purchase an optional damage waiver to cover all  
23 liability, subject to whatever exceptions the rental company  
24 expressly lists that are permitted under subdivision (f), and (F) the  
25 range of charges for the damage waiver.

26 (2) In addition to the requirements of paragraph (1), a rental  
27 company that offers or provides a damage waiver shall orally  
28 disclose to all renters, except those who are participants in the  
29 rental company's membership program, that the damage waiver  
30 may be duplicative of coverage that the customer maintains under  
31 his or her own policy of motor vehicle insurance. The renter's  
32 receipt of the oral disclosure shall be demonstrated through the  
33 renter's acknowledging receipt of the oral disclosure near that part  
34 of the contract where the renter indicates, by the renter's own  
35 initials, his or her acceptance or declination of the damage waiver.  
36 Adjacent to that same part, the contract also shall state that the  
37 damage waiver is optional. Further, the contract for these renters  
38 shall include a clear and conspicuous written disclosure that the  
39 damage waiver may be duplicative of coverage that the customer  
40 maintains under his or her own policy of motor vehicle insurance.

(3) The following is an example, for purposes of illustration and not limitation, of a notice fulfilling the requirements of paragraph (1) for a rental company that imposes liability on the renter for collision damage to the full value of the vehicle:

“NOTICE ABOUT YOUR FINANCIAL RESPONSIBILITY  
AND OPTIONAL DAMAGE WAIVER

You are responsible for all collision damage to the rented vehicle even if someone else caused it or the cause is unknown. You are responsible for the cost of repair up to the value of the vehicle, and towing, storage, and impound fees.

Your own insurance, or the issuer of the credit card you use to pay for the car rental transaction, may cover all or part of your financial responsibility for the rented vehicle. You should check with your insurance company, or credit card issuer, to find out about your coverage and the amount of the deductible, if any, for which you may be liable.

Further, if you use a credit card that provides coverage for your potential liability, you should check with the issuer to determine if you must first exhaust the coverage limits of your own insurance before the credit card coverage applies.

The rental company will not hold you responsible if you buy a damage waiver. But a damage waiver will not protect you if (list exceptions).”

(A) When the above notice is printed in the rental contract or holder in which the contract is placed, the following shall be printed immediately following the notice:

“The cost of an optional damage waiver is \$\_\_\_\_\_ for every (day or week).”

(B) When the above notice appears on a sign, the following shall appear immediately adjacent to the notice:

“The cost of an optional damage waiver is \$\_\_\_\_\_ to \$\_\_\_\_\_ for every (day or week), depending upon the vehicle rented.”

(h) (1) Notwithstanding any other provision of law, a rental company may sell a damage waiver ~~subject to the following rate limitations for each category of rental vehicle~~ for each full or partial 24-hour rental day for the damage waiver.

(+)

(2) For rental vehicles that the rental company designates as an “economy car,” ~~“subcompact car,”~~ “compact car,” or another term having similar meaning *to the two smallest categories of vehicles described in the Association of Car Rental Industry Systems Standards*, when offered for rental, ~~or another vehicle having a manufacturer’s suggested retail price of nineteen thousand dollars (\$19,000) or less,~~ the rate shall not exceed ~~nine~~ *twelve* dollars (\$9) *(\$12) until December 31, 2015.*

~~(2) For rental vehicles that have a manufacturer’s suggested retail price from nineteen thousand one dollars (\$19,001) to thirty-four thousand nine hundred ninety-nine dollars (\$34,999), inclusive, and that are also either vehicles of next year’s model, or not older than the previous year’s model, the rate shall not exceed fifteen dollars (\$15). For those rental vehicles older than the previous year’s model year, the rate shall not exceed nine dollars (\$9).~~

(i) ~~The manufacturer’s suggested retail prices~~ *On and after January 1, 2016, the rate of the damages waiver* described in paragraph (2) of subdivision (h) shall be adjusted annually to reflect changes from the previous year in the Consumer Price Index. For the purposes of this section, “Consumer Price Index” means the United States Consumer Price Index for All Urban Consumers, for all items.

(j) A rental company that disseminates in this state an advertisement containing a rental rate shall include in that advertisement a clearly readable statement of the charge for a damage waiver and a statement that a damage waiver is optional.

(k) (1) A rental company shall not require the purchase of a damage waiver, optional insurance, or another optional good or service.

(2) A rental company shall not engage in any unfair, deceptive, or coercive conduct to induce a renter to purchase the damage waiver, optional insurance, or another optional good or service, including conduct such as, but not limited to, refusing to honor the renter’s reservation, limiting the availability of vehicles, requiring a deposit, or debiting or blocking the renter’s credit card account for a sum equivalent to a deposit if the renter declines to purchase the damage waiver, optional insurance, or another optional good or service.

1 (l) (1) In the absence of express permission granted by the  
2 renter subsequent to damage to, or loss of, the vehicle, a rental  
3 company shall not seek to recover any portion of a claim arising  
4 out of damage to, or loss of, the rented vehicle by processing a  
5 credit card charge or causing a debit or block to be placed on the  
6 renter's credit card account.

7 (2) A rental company shall not engage in any unfair, deceptive,  
8 or coercive tactics in attempting to recover or in recovering on any  
9 claim arising out of damage to, or loss of, the rented vehicle.

10 (m) (1) A customer facility charge may be collected by a rental  
11 company under the following circumstances:

12 (A) Collection of the fee by the rental company is required by  
13 an airport operated by a city, a county, a city and county, a joint  
14 powers authority, a special district, or the San Diego County  
15 Regional Airport Authority formed pursuant to Division 17  
16 (commencing with Section 170000) of the Public Utilities Code.

17 (B) The fee is calculated on a per contract basis or as provided  
18 in paragraph (2).

19 (C) The fee is a user fee, not a tax imposed upon real property  
20 or an ~~incidence~~ *incident* of property ownership under Article XIII D  
21 of the California Constitution.

22 (D) Except as otherwise provided in subparagraph (E), the fee  
23 shall be ten dollars (\$10) per contract or the amount provided in  
24 paragraph (2).

25 (E) The fee for a consolidated rental car facility shall be  
26 collected only from customers of on-airport rental car companies.  
27 If the fee imposed by the airport is for both a consolidated rental  
28 car facility and a common-use transportation system, the fee  
29 collected from customers of on-airport rental car companies shall  
30 be ten dollars (\$10) or the amount provided in paragraph (2), but  
31 the fee imposed on customers of off-airport rental car companies  
32 who are transported on the common-use transportation system is  
33 proportionate to the costs of the common-use transportation system  
34 only. The fee is uniformly applied to each class of on-airport or  
35 off-airport customers, provided that the airport requires off-airport  
36 customers to use the common-use transportation system. For  
37 purposes of this subparagraph, "on-airport rental car company"  
38 means a rental company operating under an airport property lease  
39 or an airport concession or license agreement whose customers  
40 use or will use the consolidated rental car facility and the collection

1 of the fee as to those customers is consistent with subparagraph  
2 (C).

3 (F) Revenues collected from the fee do not exceed the reasonable  
4 costs of financing, designing, and constructing the facility and  
5 financing, designing, constructing, and operating any common-use  
6 transportation system, or acquiring vehicles for use in that system,  
7 and shall not be used for any other purpose.

8 (G) The fee is separately identified on the rental agreement.

9 (H) This paragraph does not apply to fees which are governed  
10 by Section 50474.1 of the Government Code or Section 57.5 of  
11 the San Diego Unified Port District Act.

12 (I) For any airport seeking to require rental car companies to  
13 collect an alternative customer facility charge pursuant to paragraph  
14 (2), the following provisions apply:

15 (i) Notwithstanding Section 10231.5 of the Government Code,  
16 the airport shall provide reports on an annual basis to the Senate  
17 and Assembly Committees on Judiciary detailing all of the  
18 following:

19 (I) The total amount of the customer facility charge collected.

20 (II) How the funds are being spent.

21 (III) The amount of and reason for any changes in the airport's  
22 budget or financial needs for the facility or common-use  
23 transportation system.

24 (IV) Whether airport concession fees authorized by Section  
25 1936.01 have increased since the prior report, if any.

26 (ii) (I) The airport shall complete the audit required by  
27 subparagraph (B) of paragraph (4) of subdivision (a) prior to the  
28 initial collection of the customer facility charge. Notwithstanding  
29 Section 10231.5 of the Government Code, copies of the audit shall  
30 be provided to the Assembly and Senate Committees on Judiciary,  
31 the Assembly Committee on Transportation, and the Senate  
32 Committee on Transportation and Housing and shall be posted on  
33 the airport's Internet Web site.

34 (II) Prior to any increase pursuant to paragraph (2), the airport  
35 shall update the information provided in the initial collection audit  
36 pursuant to subclause (I). Notwithstanding Section 10231.5 of the  
37 Government Code, copies of the updated audit shall be provided  
38 to the Assembly and Senate Committees on Judiciary, the  
39 Assembly Committee on Transportation, and the Senate Committee

1 on Transportation and Housing and shall be posted on the airport's  
2 Internet Web site.

3 (III) An audit shall be completed every three years after initial  
4 collection only if the customer facility charge is collected for the  
5 purpose of operating a common-use transportation system or to  
6 acquire vehicles for use in the system pursuant to clause (ii) of  
7 subparagraph (A) of paragraph (4) of subdivision (a). A regularly  
8 conducted audit of airport finances that includes the customer  
9 facility charge information, that satisfies the requirements of  
10 subparagraph (B) of paragraph (4) of subdivision (a), and is  
11 produced in accordance with the generally accepted accounting  
12 principles of the Government Accounting Standards Board, shall  
13 satisfy the requirements of this subclause. This obligation shall  
14 continue until the fee authorization becomes inoperative pursuant  
15 to subparagraph (C) of paragraph (4) of subdivision (a).  
16 Notwithstanding Section 10231.5 of the Government Code, the  
17 information reported pursuant to this subclause shall be compiled  
18 into one document, shall be provided to the Assembly and Senate  
19 Committees on Judiciary, the Assembly Committee on  
20 Transportation, and the Senate Committee on Transportation and  
21 Housing and shall be posted on the airport's Internet Web site  
22 accessible to the public. The information reported shall be  
23 contained within one easily accessible page contained within the  
24 airport's Internet Web site.

25 (IV) This section shall not be construed to require an airport to  
26 audit a common-use transportation system not financed by a  
27 customer facility charge and used for the purposes permitted  
28 pursuant to clause (ii) of subparagraph (A) of paragraph (4) of  
29 subdivision (a).

30 (V) The airport shall post on the airport's Internet Web site  
31 copies of the completed audits required by this clause for a period  
32 of six years following the audit's completion.

33 (iii) Use of the bonds shall be limited to construction and design  
34 of the consolidated rental car facility, terminal modifications, and  
35 operating costs of the common-use transportation system, as  
36 specified in paragraph (4) of subdivision (a).

37 (2) Any airport may require rental car companies to collect an  
38 alternative customer facility charge under the following conditions:

39 (A) The airport first conducts a publicly noticed hearing pursuant  
40 to the Ralph M. Brown Act (Chapter 9 (commencing with Section

54950) of Part 1 of Division 2 of Title 5 of the Government Code) to review the costs of financing the design and construction of a consolidated rental car facility and the design, construction, and operation of any common-use transportation system in which all of the following occur:

(i) The airport establishes the amount of revenue necessary to finance the reasonable cost to design and construct a consolidated rental car facility and to design, construct, and operate any common-use transportation system, or acquire vehicles for use in that system, based on evidence presented during the hearing.

(ii) The airport finds, based on evidence presented during the hearing, that the fee authorized in paragraph (1) will not generate sufficient revenue to finance the reasonable costs to design and construct a consolidated rental car facility and to design, construct, and operate any common-use transportation system, or acquire vehicles for use in that system.

(iii) The airport finds that the reasonable cost of the project requires the additional amount of revenue that would be generated by the proposed daily rate, including any rate increase, authorized pursuant to this paragraph.

(iv) The airport outlines each of the following:

(I) Steps it has taken to limit costs.

(II) Other potential alternatives for meeting its revenue needs other than the collection of the fee.

(III) The extent to which rental car companies or other businesses or individuals using the facility or common-use transportation system will pay for the costs associated with these facilities and systems other than the fee from rental customers.

(B) The airport may not require the fee authorized in this paragraph to be collected at any time that the fee authorized in paragraph (1) of this subdivision is being collected.

(C) Pursuant to the procedure set forth in this subdivision, the fee may be collected at a rate charged on a per-day basis subject to the following conditions:

(i) Commencing January 1, 2011, the amount of the fee may not exceed six dollars (\$6) per day.

(ii) Commencing January 1, 2014, the amount of the fee may not exceed seven dollars and fifty cents (\$7.50) per day.

(iii) Commencing January 1, 2017, and thereafter, the amount of the fee may not exceed nine dollars (\$9) per day.

1 (iv) At no time shall the fee authorized in this paragraph be  
2 collected from any customer for more than five days for each  
3 individual rental car contract.

4 (v) An airport subject to this paragraph shall initiate the process  
5 for obtaining the authority to require or increase the alternative  
6 fee no later than January 1, 2018. Any airport that obtains the  
7 authority to require or increase an alternative fee shall be authorized  
8 to continue collecting that fee until the fee authorization becomes  
9 inoperative pursuant to subparagraph (C) of paragraph (4) of  
10 subdivision (a).

11 (3) Notwithstanding any other provision of law, including, but  
12 not limited to, Part 1 (commencing with Section 6001) to Part 1.7  
13 (commencing with Section 7280), inclusive, of Division 2 of the  
14 Revenue and Taxation Code, the fees collected pursuant to this  
15 section, or another law whereby a local agency operating an airport  
16 requires a rental car company to collect a facility financing fee  
17 from its customers, are not subject to sales, use, or transaction  
18 taxes.

19 (n) (1) A rental company shall only advertise, quote, and charge  
20 a rental rate that includes the entire amount except taxes, a  
21 customer facility charge, if any, and a mileage charge, if any, that  
22 a renter must pay to hire or lease the vehicle for the period of time  
23 to which the rental rate applies. A rental company shall not charge  
24 in addition to the rental rate, taxes, a customer facility charge, if  
25 any, and a mileage charge, if any, any fee that is required to be  
26 paid by the renter as a condition of hiring or leasing the vehicle,  
27 including, but not limited to, required fuel or airport surcharges  
28 other than customer facility charges, nor a fee for transporting the  
29 renter to the location where the rented vehicle will be delivered to  
30 the renter.

31 (2) In addition to the rental rate, taxes, customer facility charges,  
32 if any, and mileage charges, if any, a rental company may charge  
33 for an item or service provided in connection with a particular  
34 rental transaction if the renter could have avoided incurring the  
35 charge by choosing not to obtain or utilize the optional item or  
36 service. Items and services for which the rental company may  
37 impose an additional charge include, but are not limited to, optional  
38 insurance and accessories requested by the renter, service charges  
39 incident to the renter's optional return of the vehicle to a location  
40 other than the location where the vehicle was hired or leased, and



1 charges for refueling the vehicle at the conclusion of the rental  
2 transaction in the event the renter did not return the vehicle with  
3 as much fuel as was in the fuel tank at the beginning of the rental.  
4 A rental company also may impose an additional charge based on  
5 reasonable age criteria established by the rental company.

6 (3) A rental company shall not charge a fee for authorized  
7 drivers in addition to the rental charge for an individual renter.

8 (4) If a rental company states a rental rate in print advertisement  
9 or in a telephonic, in-person, or computer-transmitted quotation,  
10 the rental company shall disclose clearly in that advertisement or  
11 quotation the terms of mileage conditions relating to the advertised  
12 or quoted rental rate, including, but not limited to, to the extent  
13 applicable, the amount of mileage and gas charges, the number of  
14 miles for which no charges will be imposed, and a description of  
15 geographic driving limitations within the United States and Canada.

16 (5) (A) When a rental rate is stated in an advertisement,  
17 quotation, or reservation in connection with a car rental at an airport  
18 where a customer facility charge is imposed, the rental company  
19 shall disclose clearly the existence and amount of the customer  
20 facility charge. For purposes of this subparagraph, advertisements  
21 include radio, television, other electronic media, and print  
22 advertisements. For purposes of this subparagraph, quotations and  
23 reservations include those that are telephonic, in-person, and  
24 computer-transmitted. If the rate advertisement is intended to  
25 include transactions at more than one airport imposing a customer  
26 facility charge, a range of fees may be stated in the advertisement.  
27 However, all rate advertisements that include car rentals at airport  
28 destinations shall clearly and conspicuously include a toll-free  
29 telephone number whereby a customer can be told the specific  
30 amount of the customer facility charge to which the customer will  
31 be obligated.

32 (B) If a person or entity other than a rental car company,  
33 including a passenger carrier or a seller of travel services, advertises  
34 or quotes a rate for a car rental at an airport where a customer  
35 facility charge is imposed, that person or entity shall, provided  
36 that he, she, or it is provided with information about the existence  
37 and amount of the fee, to the extent not specifically prohibited by  
38 federal law, clearly disclose the existence and amount of the fee  
39 in any telephonic, in-person, or computer-transmitted quotation at  
40 the time of making an initial quotation of a rental rate and at the

1 time of making a reservation of a rental car. If a rental car company  
2 provides the person or entity with rate and customer facility charge  
3 information, the rental car company is not responsible for the  
4 failure of that person or entity to comply with this subparagraph  
5 when quoting or confirming a rate to a third person or entity.

6 (6) If a rental company delivers a vehicle to a renter at a location  
7 other than the location where the rental company normally carries  
8 on its business, the rental company shall not charge the renter an  
9 amount for the rental for the period before the delivery of the  
10 vehicle. If a rental company picks up a rented vehicle from a renter  
11 at a location other than the location where the rental company  
12 normally carries on its business, the rental company shall not  
13 charge the renter an amount for the rental for the period after the  
14 renter notifies the rental company to pick up the vehicle.

15 (o) A rental company shall not use, access, or obtain any  
16 information relating to the renter's use of the rental vehicle that  
17 was obtained using electronic surveillance technology, except in  
18 the following circumstances:

19 (1) (A) When the equipment is used by the rental company  
20 only for the purpose of locating a stolen, abandoned, or missing  
21 rental vehicle after one of the following:

22 (i) The renter or law enforcement has informed the rental  
23 company that the vehicle is missing or has been stolen or  
24 abandoned.

25 (ii) The rental vehicle has not been returned following one week  
26 after the contracted return date, or by one week following the end  
27 of an extension of that return date.

28 (iii) The rental company discovers the rental vehicle has been  
29 stolen or abandoned, and, if stolen, it shall report the vehicle stolen  
30 to law enforcement by filing a stolen vehicle report, unless law  
31 enforcement has already informed the rental company that the  
32 vehicle is missing or has been stolen or abandoned.

33 (B) If electronic surveillance technology is activated pursuant  
34 to subparagraph (A), a rental company shall maintain a record, in  
35 either electronic or written form, of information relevant to the  
36 activation of that technology. That information shall include the  
37 rental agreement, including the return date, and the date and time  
38 the electronic surveillance technology was activated. The record  
39 shall also include, if relevant, a record of written or other  
40 communication with the renter, including communications

1 regarding extensions of the rental, police reports, or other written  
2 communication with law enforcement officials. The record shall  
3 be maintained for a period of at least 12 months from the time the  
4 record is created and shall be made available upon the renter's  
5 request. The rental company shall maintain and furnish explanatory  
6 codes necessary to read the record. A rental company shall not be  
7 required to maintain a record if electronic surveillance technology  
8 is activated to recover a rental vehicle that is stolen or missing at  
9 a time other than during a rental period.

10 (2) In response to a specific request from law enforcement  
11 pursuant to a subpoena or search warrant.

12 (3) This subdivision does not prohibit a rental company from  
13 equipping rental vehicles with GPS-based technology that provides  
14 navigation assistance to the occupants of the rental vehicle, if the  
15 rental company does not use, access, or obtain information relating  
16 to the renter's use of the rental vehicle that was obtained using  
17 that technology, except for the purposes of discovering or repairing  
18 a defect in the technology and the information may then be used  
19 only for that purpose.

20 (4) This subdivision does not prohibit a rental company from  
21 equipping rental vehicles with electronic surveillance technology  
22 that allows for the remote locking or unlocking of the vehicle at  
23 the request of the renter, if the rental company does not use, access,  
24 or obtain information relating to the renter's use of the rental  
25 vehicle that was obtained using that technology, except as  
26 necessary to lock or unlock the vehicle.

27 (5) This subdivision does not prohibit a rental company from  
28 equipping rental vehicles with electronic surveillance technology  
29 that allows the company to provide roadside assistance, such as  
30 towing, flat tire, or fuel services, at the request of the renter, if the  
31 rental company does not use, access, or obtain information relating  
32 to the renter's use of the rental vehicle that was obtained using  
33 that technology except as necessary to provide the requested  
34 roadside assistance.

35 (6) This subdivision does not prohibit a rental company from  
36 obtaining, accessing, or using information from electronic  
37 surveillance technology for the sole purpose of determining the  
38 date and time the vehicle is returned to the rental company, and  
39 the total mileage driven and the vehicle fuel level of the returned  
40 vehicle. This paragraph, however, shall apply only after the renter

1 has returned the vehicle to the rental company, and the information  
2 shall only be used for the purpose described in this paragraph.

3 (p) A rental company shall not use electronic surveillance  
4 technology to track a renter in order to impose fines or surcharges  
5 relating to the renter's use of the rental vehicle.

6 (q) A renter may bring an action against a rental company for  
7 the recovery of damages and appropriate equitable relief for a  
8 violation of this section. The prevailing party shall be entitled to  
9 recover reasonable attorney's fees and costs.

10 (r) A rental company that brings an action against a renter for  
11 loss due to theft of the vehicle shall bring the action in the county  
12 in which the renter resides or, if the renter is not a resident of this  
13 state, in the jurisdiction in which the renter resides.

14 (s) A waiver of any of the provisions of this section shall be  
15 void and unenforceable as contrary to public policy.

16 (t) (1) A rental company's disclosure requirements shall be  
17 satisfied for renters who are enrolled in the rental company's  
18 membership program if all of the following conditions are met:

19 (A) Prior to the enrollee's first rental as a participant in the  
20 program, the renter receives, in writing, the following:

21 (i) All of the disclosures required by paragraph (1) of subdivision  
22 (g), including the terms and conditions of the rental agreement  
23 then in effect.

24 (ii) An Internet Web site address, as well as a contact number  
25 or address, where the enrollee can learn of changes to the rental  
26 agreement or to the laws of this state governing rental agreements  
27 since the effective date of the rental company's most recent  
28 restatement of the rental agreement and distribution of that  
29 restatement to its members.

30 (B) At the commencement of each rental period, the renter is  
31 provided, on the rental record or the folder in which it is inserted,  
32 with a printed notice stating that he or she had either previously  
33 selected or declined an optional damage waiver and that the renter  
34 has the right to change preferences.

35 (C) At the commencement of each rental period, the rental  
36 company provides, on the rearview mirror, a hanger on which a  
37 statement is printed, in a box, in at least 12-point boldface type,  
38 notifying the renter that the collision damage waiver offered by  
39 the rental company may be duplicative of coverage that the  
40 customer maintains under his or her own policy of motor vehicle

1 insurance. If it is not feasible to hang the statement from the  
2 rearview mirror, it shall be hung from the steering wheel.

3 The hanger shall provide the renter a box to initial if he or she  
4 (not his or her employer) has previously accepted or declined the  
5 collision damage waiver and that he or she now wishes to change  
6 his or her decision to accept or decline the collision damage waiver,  
7 as follows:

8 “If I previously accepted the collision damage waiver, I now  
9 decline it.

10 If I previously declined the collision damage waiver, I now  
11 accept it.”

12 The hanger shall also provide a box for the enrollee to indicate  
13 whether this change applies to this rental transaction only or to all  
14 future rental transactions. The hanger shall also notify the renter  
15 that he or she may make that change, prior to leaving the lot, by  
16 returning the form to an employee designated to receive the form  
17 who is present at the lot where the renter takes possession of the  
18 car, to receive any change in the rental agreement from the renter.

19 (2) (A) This subdivision is not effective unless the employee  
20 designated pursuant to subparagraph (E) of paragraph (8) of  
21 subdivision (a) is actually present at the required location.

22 (B) This subdivision does not relieve the rental company from  
23 the disclosures required to be made within the text of a contract  
24 or holder in which the contract is placed; in or on an advertisement  
25 containing a rental rate; or in a telephonic, in-person, or  
26 computer-transmitted quotation or reservation.

27 (u) The amendments made to this section during the 2001–02  
28 Regular Session of the Legislature do not affect litigation pending  
29 on or before January 1, 2003, alleging a violation of Section 22325  
30 of the Business and Professions Code as it read at the time the  
31 action was commenced.